

Senate Bill 145 (Murray)
Version: As proposed to be amended March 10
Status: In Senate Elections
Hearing set: March 16, 2005
Urgency measure

Summary

Provides candidates for elective state office authority to collect limited contributions outside Proposition 34's limit scheme for the purpose of paying officeholder expenses, or for any other purpose authorized under the Act *except* election-related activities. Also sets annual limits on the aggregate amount of contributions that may be collected under this authority.

Recommendation

The Chairman's *ad hoc* subcommittee took a position of "oppose unless amended/support if amended" on this bill in advance of its March 16 hearing. Based on that position, the bill was amended, but not all of the subcommittee's concerns were met. As a result, staff is recommending the Commission adopt a position of "**neutral**" on the bill as it is proposed to be amended. A mock up of those proposed amendments accompanies this analysis.

Background

Government Code section 85316, enacted by the voters in Proposition 34, prohibits an elective state office candidate from collecting a contribution after the date of an election except to pay debt from that election. The confluence of this prohibition and the candidate term limits finds termed-out state officials unable to raise funds to pay expenses associated with holding office.

The Commission has been on record supporting fundraising for officeholder expenses, provided that authority is within the bounds of Proposition 34's contribution limits. SB 467 and AB 890 were bills amended last legislative session to allow fundraising for officeholder expenses. The Commission adopted positions of "support" and "support if amended," respectively, on these two bills. These prior bills provided this fundraising authority subject to the limits of Proposition 34.

Analysis

This bill provides a broad exception to the "net debt" fundraising limitation in section 85316. It does this by codifying new and separate contribution limits for the purpose of officeholder expense fundraising.

Staff communicated the following concerns with the bill in advance of a March 16 hearing:

1. That the separate limit is beyond the scope of Proposition 34, and therefore fails to further the purposes of the Act as required by Government Code sec. 81012.
2. That the aggregate limit of annual fundraising allowed under the bill be reduced by any cash available after the candidate's last election.
3. That these officeholder expense funds be segregated from campaign funds.
4. That a technical amendment be taken to remove an inaccurate reference to the definition of election-related expenses.

To meet some of these concerns, the author has proposed the amendments shown in the accompanying mock up. These amendments address concerns 3 and 4, but do not specifically address items 1 and 2. However, the author has proposed the following language to ensure that these officeholder expense funds are applied against the applicable limit for any office the candidate may seek before the end of their current term:

Any contribution received pursuant to this subdivision shall be deemed a contribution to that candidate for election to any state office that he or she may seek during the term of office to which he or she is currently elected including, but not limited to, reelection to the office he or she currently holds, and shall be subject to any applicable contribution limit provided in this title. If a contribution received pursuant to this subdivision exceeds the allowable contribution limit for the office sought, the candidate shall return the amount exceeding the limit to the contributor on a basis to be determined by the Commission.

While these proposed amendments would remove most of the concerns, and at least partially mitigate some of the remaining issues, they raise a new concern as how candidates are to report these contributions—both when they are received for officeholder expenses *and* when they are converted into campaign contributions upon the occasion of the candidate's decision to seek some new office.

Fiscal Impact

Inquiries from candidates and contributors will incur additional workload for both the Legal Division, in responding to written advice requests, and the Technical Assistance Division, in handling telephone inquiries. In addition, some Enforcement workload may be created. It is estimated that these costs would not exceed \$50,000 annually.